

ESTTA Tracking number: **ESTTA632643**

Filing date: **10/14/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Valora Schweiz AG		
Entity	Corporation	Citizenship	Switzerland
Address	Hofackerstrasse 40 CH-4132 MuttENZ, SWITZERLAND		

Attorney information	Lawrence E. Abelman Abelman, Frayne & Schwab 666 Third Ave. New York, NY 10017 UNITED STATES ehalstead@lawabel.com, leabelman@lawabel.com, docket@lawabel.com Phone: 212-949-9022
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### Registration Subject to Cancellation

Registration No	3480541	Registration date	08/05/2008
Registrant	Megester, Inc. 2180 Calumet Street Clearwater, FL 33765 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 032. First Use: 2008/02/06 First Use In Commerce: 2008/02/06 All goods and services in the class are cancelled, namely: Natural non-alcoholic beverages containing fruit juices
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	OK! ORGANICS pet to cancel based on non-use.pdf(67084 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/lea/
Name	Lawrence E. Abelman

Date	10/14/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Reg. No. 3480541  
Mark: OK! ORGANICS  
Reg. Date: August 5, 2008

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**VALORA SCHWEIZ AG,**

**Petitioner,**

**v.**

**MEGESTER, INC.,**

**Registrant.**

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**Cancellation No.**


**PETITION FOR CANCELLATION**

Applicant/Petitioner, Valora Schweiz AG, with an address of Hofackerstrasse 40, CH-4132 Muttenz, Switzerland, believes that it is damaged by Reg. No. 3480541 for the mark OK! ORGANICS, in the name of Megester, Inc., and petitions to cancel same.

As grounds for cancellation, Petitioner alleges:

1. On information and belief, Registrant is the owner of record for Reg. No. 3480541 for the mark OK! ORGANICS for “natural non-alcoholic beverages containing fruit juices” in International Class 32.
2. On information and belief, Registrant is a Florida corporation with a business address of 2180 Calumet Street, Clearwater, FL 33765.
3. On information and belief, and according to Registrant’s registration record, the subject mark was filed on February 11, 2008 based on Section 1(a), with an alleged commercial date of first use of February 6, 2008.

4. On information and belief, and according to Registrant's registration record, the subject mark was registered on August 5, 2008.
5. Upon information and belief, Petitioner alleges that Registrant has ceased use in commerce in the United States of OK! ORGANICS in connection with "natural non-alcoholic beverages containing fruit juices."
6. As a result of Registrant's cessation of use in U.S. commerce of OK! ORGANICS, the subject registration has been abandoned and should be cancelled pursuant to 15 U.S.C. §1064.

7. Petitioner applied to register the mark  Ser. No. 79/122683, based on §66(a), on October 11, 2012, for "beers; mineral and aerated waters and other non-alcoholic drinks, namely, soft drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages, namely fruit drinks; energy drinks," in International Class 32.
8. Petitioner is damaged by Reg. No. 3480541 because this registration was cited as a bar to registration of its application No. 79/122683 pursuant to 15 U.S.C. §1052(d). Petitioner's application is now the subject of an ex parte appeal.

WHEREFORE, Petitioner prays that Reg. No. 3480541 be cancelled.

Petitioner requests that the requisite filing fee of \$300 be charged to the undersigned's  
Deposit Account No. 010035-6336.

Respectfully submitted,

Date: October 14, 2014

s/ *L. Abelman*

**LAWRENCE E. ABELMAN  
ERICA R. HALSTEAD**

**Counsel for Applicant/Petitioner  
Abelman, Frayne & Schwab**  
666 Third Avenue  
10<sup>th</sup> Floor  
New York, NY 10017  
[leabelman@lawabel.com](mailto:leabelman@lawabel.com)  
[ehalstead@lawabel.com](mailto:ehalstead@lawabel.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing PETITION FOR  
CANCELLATION was served by first class mail, postage prepaid, this 14th day of October,  
2014 upon Registrant, who is listed as attorney/correspondent:

MEGESTER, INC.  
2180 Calumet St.  
Clearwater, FL 33765-1309

Date: October 14, 2014

s/ *Erica Halstead*

**ERICA R. HALSTEAD**  
**Abelman, Frayne & Schwab**